

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

FELETI LIVAI, individually and on behalf of all others similarly situated,	) Case No.
	)
	) <b><u>CLASS ACTION</u></b>
Plaintiff,	)
	) <b>COMPLAINT FOR VIOLATIONS</b>
vs.	) <b>OF:</b>
	)
WEST ASSET MANAGEMENT, INC.,	) <b>(1) Federal Fair Debt Collection</b>
	) <b>Practices Act [15 U.S.C. § 1692 et</b>
	) <b>seq.]</b>
Defendant.	)
	) <b><u>DEMAND FOR JURY TRIAL</u></b>
	)
	<b>(Amount to exceed \$25,000)</b>

Plaintiff, Feleti Livai (“Plaintiff”), individually and on behalf of all others similarly situated, alleges the following upon information and belief based upon personal knowledge:

## NATURE OF THE CASE

1. This is a class action brought on behalf of all individuals similarly

1 situated who received collection letters from Defendant wherein Defendant  
2 misrepresented to an individual the identity of the original creditor with respect to  
3 the alleged debt owed by said individual, in violation of the Federal Fair Debt  
4 Collection Practices Act, 15 U.S.C. § 1692 et seq. (“FDCPA”).

### 5 **JURISDICTION & VENUE**

6 2. Jurisdiction is proper under 28 U.S.C. § 1332(d)(2) because Plaintiff,  
7 a resident of California, seeks relief on behalf of a Class, which will result in at  
8 least one class member belonging to a different state than that of Defendant, who  
9 is a company which is Incorporated in the state of Delaware. Plaintiff also seeks  
10 up to \$1,000.00 in damages for each call in violation of the FDCPA, which, when  
11 aggregated among a proposed class in the thousands, exceeds the \$5,000,000.00  
12 threshold for federal court jurisdiction. Therefore, both diversity jurisdiction and  
13 the damages threshold under the Class Action Fairness Act of 2005 (“CAFA”) are  
14 present, and this Court has jurisdiction.

### 15 **PARTIES**

16 3. Plaintiff, Feleti Livai (“Plaintiff”), is a natural person residing in  
17 Santa Clara County in the State of California who allegedly owed or owes a debt  
18 and is thereby and is a “consumer” as defined by the FDCPA, 15 U.S.C. §  
19 1692a(3).

20 4. At all relevant times herein, Defendant, West Asset Management,  
21 Inc. (“Defendant”) was a company engaged, by use of the mails and telephone, in  
22 the business of collecting a debt from Plaintiff and others which qualifies as a  
23 “debt,” as defined by the FDCPA, U.S.C. § 1692a(5). Defendant regularly  
24 attempts to collect debts alleged to be due them or another, and therefore is a  
25 “debt collector” as defined by the FDCPA, 15 U.S.C. § 1692a(6).

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### 27 **FACTUAL ALLEGATIONS**

28 5. Beginning in or around April 4, 2014, Defendant began contacting

1 Plaintiff in an attempt to collect an alleged outstanding debt owed for medical  
2 services rendered. Defendant referenced Plaintiff's account number as 214-  
3 22068547.

4 6. During this process, Defendant, in its ordinary course of business,  
5 began attempting to collect the alleged debt from Plaintiff via dunning letters.  
6 Said dunning letters demanded that Plaintiff promptly pays the alleged debt owed.

7 7. On a dunning letter sent to Plaintiff on April 4, 2014, Defendant  
8 identified the original creditor as Apria Healthcare. However, on Plaintiff's credit  
9 report, Defendant identified the original creditor as Connance, Inc. Plaintiff is  
10 informed, and thereon believes that Plaintiff has never received a loan from  
11 Connance, Inc., nor has Plaintiff engaged in any type of business with Connance,  
12 Inc.

13 8. Connance, Inc. is not the original creditor with respect to the alleged  
14 debt owed by Plaintiff. The original creditor for the aforementioned alleged debt  
15 is Apria Healthcare.

16 9. By stating that Connance, Inc. is the original creditor with respect to  
17 Plaintiff's account number 214-22068547, and not Apria Healthcare, Defendant  
18 has materially misrepresented facts about Plaintiff's alleged debt owed.

19 **CLASS ALLEGATIONS**

20 10. Plaintiff brings this action individually and on behalf of all others  
21 similarly situated, as a member of the proposed class (hereafter the "The Class")  
22 defined as follows:

23 All persons within the United States who received a  
24 dunning letter from Defendant within one (1) calendar  
25 year from the filing of the instant complaint wherein  
26 Defendant falsely and deceptively misrepresented to  
27 said person the identity of the original creditor with  
28 respect to said person's debt.

11. Defendants, their employees and agents are excluded from The

1 Class. Plaintiff does not know the number of members in The Class, but believes  
2 the Class members number in the thousands, if not more. Thus, this matter  
3 should be certified as a Class Action to assist in the expeditious litigation of the  
4 matter.

5 12. This action is brought and may be properly maintained as a class  
6 action. This action satisfies the numerosity, typicality, adequacy, predominance  
7 and superiority requirements for a class action.

8 13. The Class is so numerous that the individual joinder of all of its  
9 members is impractical. While the exact number and identities of The Class  
10 members are unknown to Plaintiff at this time and can only be ascertained  
11 through appropriate discovery, Plaintiff is informed and believes and thereon  
12 alleges that The Class includes thousands of members. Plaintiff alleges that The  
13 Class members may be ascertained by the records maintained by Defendant.

14 14. Common questions of fact and law exist as to all members of The  
15 Class which predominate over any questions affecting only individual members  
16 of the The Class. These common legal and factual questions, which do not vary  
17 between The Class members, and which may be determined without reference to  
18 the individual circumstances of any of The Class members, include, but are not  
19 limited to, the following:

- 20
- 21 a. Whether, within the four years prior to the filing of this  
22 Complaint, Defendant sent any dunning letters to a Class  
23 member wherein Defendant, in the dunning letter, falsely and  
24 deceptively misrepresented to said person the identity of the  
25 original creditor with respect to said person's debt;
- 26 b. Whether Plaintiff and The Class members were damages  
27 thereby, and the extent of damages for such violation; and
- 28 c. Whether Defendants should be enjoined from engaging in

1                   such conduct in the future.

2           15. Plaintiff is asserting claims that are typical of the The Class because  
3 every other member of The Class, like Plaintiff, were exposed to virtually  
4 identical conduct and are entitled to statutory damages up to \$1,000.00 in addition  
5 to actual damages and reasonable attorneys' fees and costs pursuant to the  
6 FDCPA.

7           16. Plaintiff will fairly and adequately protect the interests of the  
8 members of The Class. Plaintiff has retained attorneys experienced in the  
9 prosecution of class actions.

10          17. A class action is superior to other available methods of fair and  
11 efficient adjudication of this controversy, since individual litigation of the claims  
12 of all of The Class members is impracticable. Even if every one of The Class  
13 members could afford individual litigation, the court system could not. It would  
14 be unduly burdensome to the courts in which individual litigation of numerous  
15 issues would proceed. Individualized litigation would also present the potential  
16 for varying, inconsistent, or contradictory judgments and would magnify the  
17 delay and expense to all parties and to the court system resulting from multiple  
18 trials of the same complex factual issues. By contrast, the conduct of this action  
19 as a class action presents fewer management difficulties, conserves the resources  
20 of the parties and of the court system, and protects the rights of each of the Class  
21 members.

22          18. The prosecution of separate actions by thousands of individual Class  
23 members would also create the risk of inconsistent or varying adjudications with  
24 respect to, among other things, the need for and the nature of proper disclosures  
25 which Defendant must provide to all Class members when attempting to collect  
26 alleged debts.

27          19. The prosecution of separate actions by individual Class members  
28 would create a risk of adjudications with respect to them that would, as a practical

1 matter, be dispositive of the interests of the other Class members not parties to  
2 such adjudications or that would substantially impair or impede the ability of such  
3 non-party Class members to protect their interests.

4 20. Defendant has acted or refused to act in respects generally applicable  
5 to The Class, thereby making appropriate final and injunctive relief with regard to  
6 the members of The Class as a whole.

7 **COUNT I: VIOLATION OF FEDERAL**  
8 **FAIR DEBT COLLECTION PRACTICES ACT**

9 21. Plaintiff hereby incorporates the preceding paragraphs as if set forth  
10 in full.

11 22. Based upon the foregoing, Defendant's conduct violated the FDCPA  
12 in multiple ways, including but not limited to:

- 13 a) Falsely representing the character, amount, or legal status  
14 of Plaintiff's debt (§ 1692e(2)(A));
- 15 b) Using false representations and deceptive practices in  
16 connection with collection of an alleged debt from Plaintiff  
17 (§ 1692e(10));
- 18 c) Using unfair or unconscionable means against Plaintiff in connection  
19 with an attempt to collect a debt (§ 1692f));
- 20 d) Collecting an amount from Plaintiff that is not expressly authorized  
21 by the agreement creating the debt (§ 1692f(1)); and
- 22 e) Collecting an amount from Plaintiff that is not permitted by law (§  
23 1692f(1)).

24 23. Plaintiff alleges that to the extent that Defendant's actions, counted  
25 above, violated the FDCPA, those actions were done knowingly and willfully

26 24. As a direct and proximate result of Defendant's violations of the  
27 FDCPA, U.S.C. 15 § 1692, et seq., Plaintiff and the members of The Class have  
28 suffered injury, and may recover from Defendant one thousand dollars

1 (\$1,000.00) in statutory damages in addition to actual damages and reasonable  
2 attorneys' fees and costs pursuant to the FDCPA.

3 25. The violations of the FDCPA, U.S.C. 15 § 1692, et seq., described  
4 herein present a continuing threat to members of The Class and members of the  
5 general public in that Plaintiff is informed and believes and thereon alleges that  
6 Defendant continues to engage in these practices, and will not cease doing so  
7 unless and until forced to do so by this Court.

8 **PRAYER FOR RELIEF**

9 Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and The  
10 Class members the following relief against Defendants, and each of them:

- 11 a) That this action be certified as a class action on behalf of The Class  
12 and Plaintiff be appointed as the representative of The Class;  
13 b) For statutory damages of \$1,000.00 for Plaintiff and each member of  
14 The Class pursuant to the FDCPA;  
15 c) For actual damages according to proof;  
16 d) For reasonable attorneys' fees and costs of suit;  
17 e) For prejudgment interest at the legal rate; and  
18 f) For such further relief as this Court deems necessary, just, and  
19 proper.  
20

21 **DEMAND FOR JURY TRIAL**

22 Plaintiff demands a trial by jury of each and every claim so triable.

23 Respectfully submitted,

24 Dated: January 6, 2015 **LAW OFFICES OF TODD M. FRIEDMAN, P.C.**

25 **s/Todd M. Friedman**

26 Todd M. Friedman  
27 Attorney for Plaintiff  
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